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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/443,793 11/18/99 ALBRECHT

D 505-02

EXAMINER

PM92/0201

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PICKARD, A

ART UNIT

PAPER NUMBER

3626

DATE MAILED:

02/01/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. 09/443,793	Applicant(s) ALBRECHT, DAVID E.	
	Examiner Alison K. Pickard	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-10 and 13-22 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 11 and 12 is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

### **DETAILED ACTION**

1. Applicant is advised that should claims 1 or 3-6 be found allowable, claims 7 or 9-12 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 20 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 20 requires the smaller diameter portion of the plate to be generally equal to the port diameter. There does not appear to be any support for this in the specification. In fact, the specification states that the smaller diameter portion is "significantly smaller" than the port diameter (page 11, line 10).

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-3, 7, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith, U. S. Patent No. 4,095,809.

Smith discloses a plate similar to applicant's. The plate 31 includes an opening having a boundary. An annular seal 36 is disposed within the boundary. A support ring 22 is disposed within the seal 36. The seal 36 is a flexible O-ring. The ring 22 is metal and has an outer boundary with two chamfers 24.

3. Claims 1, 2, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Breaker, U. S. Patent No. 5,518,257.

Breaker discloses a plate similar to applicant's. The plate 16 includes an opening having a boundary. An annular seal 30 is disposed within the boundary. A support ring 26 is disposed within the seal 30. The seal 30 is a flexible O-ring. The ring 26 is metal and has an outside diameter greater than an inside diameter of the annular seal.

4. Claims 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Erickson, U. S. Patent No. 2,987,218.

Erickson discloses a blanking plate similar to applicant's. The plate 14 includes a domed portion transitioning from a flat surface and defining a surface which is convex.

5. Claims 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Malcolm, U. S. Patent No. 4,346,848.

Malcolm discloses an orifice plate similar to applicant's. The plate 20 includes means for attachment 17/22 and a convex domed portion with an orifice 21.

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6. Claims 19, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Klak, U. S. Patent No. 5,305,796.

Klak discloses a sealing plate similar to applicant's. The plate 5 includes an interface between a port and component. The plate defines a central bore which transitions from a larger diameter portion 99 to a smaller portion. The component includes a seal 9. The smaller diameter portion of the bore is smaller than the diameter of the seal.

7. Claims 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaetscher, U. S. Patent No. 4,850,600.

Kaetscher discloses a sealing plate similar to applicant's. The plate 9 (Fig. 4) defines a central bore which transitions from a larger diameter portion to a smaller diameter portion. The smaller diameter portion generally equals the port diameter in the component 17.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith.

As mentioned above, Smith discloses a plate with two chamfers. However, Smith does not disclose the angle of the chamfers. Making the chamfers at a 45 degree angle is considered an optimized design choice. It is not considered inventive to discover the optimum or workable ranges by routine experimentation. *In re Aller*, 105 USPQ 233, 235 (CCPA, 1955). Therefore, it

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would have been obvious for one of ordinary skill in the art at the time the invention was made to make the chamfers of Smith with a 45 degree angle as a matter of choice in design.

*Allowable Subject Matter*

10. Claims 5, 6, 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison K. Pickard whose telephone number is 703-305-0882. The examiner can normally be reached on M-F (9-6:30), with alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1113.

AP  
January 28, 2001

  
**Anthony Knight**  
**Supervisory Patent Examiner**  
**Group 3600**